

Docket No.: WRA-32830

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By: Wm. GreenDate: September 16, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Applicant : Karl Draganitsch et al.
Applic. No. : 09/817,573
Filed : March 26, 2001
Title : Method of Producing a Wafer Product, Assembly for
Implementing the Method, and Wafer Product Produced
According to the Method
Examiner : Thuy Tran Lien - Art Unit: 1761

REPLY BRIEF

Commissioner for Patents,
Alexandria, VA 22313-1450,

Sir:

This is in reply to the Examiner's Answer dated July 16, 2003. The Examiner responded to appellants' brief by expanding on the argument surrounding the interpretation of appellants' claims and specifically the issue of compressing and shaping.

More specifically, the Examiner insisted that the claims do not recite separate steps for compressing and shaping. Furthermore, the Examiner continued with the argument according to which the dictionary definition of the word "shaping" could be matched with the processing found in the reference Wolf.

Unfortunately, the Examiner's argument completely misses the important point. The question is not whether the reference to Wolf teaches compressing and shaping when the bakery product is fed through the final compression rollers — as understood

-1-

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from an abstract reading of the references. The correct question is whether or not a person of skill in the art would equate the final compression rollers of Wolf with the claimed "compressing the first and second wafer sheets and shaping the first and second wafer sheets . . . in a warm state . . . enabling said first and second wafer sheets to be shaped." Those of skill in the art will understand that this claim definition goes far beyond that of the Wolf teaching. One must also not forget the requirement in appellants' claims that the batter must have a sugar content (or equivalent) of at least 23%, which renders the batter malleable after baking. The Wolf reference, as previously pointed out, does not allow a shaping process subsequent to baking, the Examiner's arguments concerning the rolling process notwithstanding.

The argument is indeed the following:

The prior art knew how to shape hot products with a high content of sugar. The prior art also knew to combine cold, shaped wafers with food-stuff and then to press them. At that point, however, it was no longer possible to shape those wafer products.

According to the invention, it is now possible for the first time to produce a sandwich of wafer sheets with food-stuff in between the sheets and then to form and shape the sandwich.

In view of the foregoing, the honorable Board is respectfully urged to reverse the primary Examiner's continued rejection of the claims.

Respectfully submitted,



For Appellants

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